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Request for the inclusion of a supplementary item in the agenda of the seventy-first session

Observer status for the Conference of Ministers of Justice of the Ibero-American Countries in the General Assembly

Letter dated 27 July 2016 from the Permanent Representative of Spain to the United Nations addressed to the Secretary-General

On behalf of Guatemala, Honduras, Mexico, Panama, Peru, Portugal, Spain and Uruguay I have the honour to request, in accordance with rule 14 of the rules of procedure of the General Assembly, the inclusion in the agenda of the seventy-first session of the General Assembly of a supplementary item entitled "Observer status for the Conference of Ministers of Justice of the Ibero-American Countries in the General Assembly".

In accordance with rule 20 of the rules of procedure of the General Assembly, an explanatory memorandum (annex I), the basic documents (the constituent agreement (annex II) and the headquarters agreement (annex III)) and a draft resolution (annex IV) are attached herewith.

I should be grateful if you would have the present letter and its annexes circulated as a document of the General Assembly.

(*Signed*) Román **Oyarzun**
Permanent Representative of Spain to the United Nations

* Reissued for technical reasons on 29 August 2016.

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Annex I

Explanatory memorandum

1. Background

1.1 The Conference of Ministers of Justice of the Ibero-American Countries (COMJIB) is an intergovernmental organization resulting from the transformation of the Conference of Ministers of Justice of the Hispano-Luso-American Countries and the Philippines, instituted by the Act of Madrid of 1970.

1.2 At its meeting in Acapulco in 1988, the Conference of Ministers of Justice of the Hispano-Luso-American Countries and the Philippines recommended that an extraordinary conference of plenipotentiaries should be held in Spain in 1992.

1.3 The Conference was institutionalized on 7 October 1992, through the adoption of its Constituent Treaty, the so-called "Madrid Treaty", by which it was granted its own legal personality as an international organization with its headquarters in Madrid.

2. Composition

2.1 The Conference is open to all States members of the Ibero-American Community, represented by their Ministers of Justice or their equivalents. These States are Argentina, Bolivia (Plurinational State of), Brazil, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Portugal, Spain, Uruguay and Venezuela (Bolivarian Republic of). Most of the countries are represented by their Ministers of Justice, except Guatemala (Ministry of the Interior), Panama (Ministry of the Interior), Honduras (Ministry of Human Rights, Justice, the Interior and Decentralization), the Dominican Republic and Mexico (Office of the Attorney General of the Republic) and Nicaragua (Supreme Court).

2.2 A State party may be excluded or suspended only by a vote of two thirds of the States parties.

3. Institutional structure

3.1 The organs of the Conference are the Plenary Assembly, the Executive Committee and the Permanent General Secretariat.

3.2 Composition:

3.2.1 Plenary Assembly

The Plenary Assembly will comprise the Ministers of Justice or, where appropriate, the senior representatives of counterpart institutions of the States parties members of the Conference.

The Regular Plenary Assembly of the Conference will be convened once every two years to discuss the topics mentioned in section 3.3.

To adopt agreements, each State party member of the Conference will have one vote. The recommendations made to States parties, the adoption of international treaties and the adoption of the budget and implementation of spending, as well as the exclusion, suspension or readmission of a State party,

and also the removal from office of the Secretary-General, will require a qualified majority of two thirds of the States parties present.

Other decisions will require a simple majority of the States parties present.

3.2.2. Executive Committee

The Executive Committee shall consist of five members, elected at each of the Plenary Assemblies by the participants, by a majority of one half plus one of the votes cast. Its mandate will last until the next election and its members may be re-elected.

The Executive Committee will meet at least once between Plenary Assemblies.

3.2.3 Permanent General Secretariat

The Permanent General Secretariat is the executive organ of the Conference and is composed of the Secretary-General and the Under-Secretaries-General.

3.2.3.1 Secretary-General:

1. The Secretary-General is ranked highest in the administrative structure of the Conference of Ministers of Justice of the Ibero-American countries and is responsible for its operation.

2. The Secretary-General must be a figure who occupies or who has occupied a position of high responsibility in any of the member countries of the Conference or an international organization.

3. He will serve a term of four years and may be re-elected once only. He will leave his post at the end of his mandate, or after resignation or removal from office if so decided by the Plenary Assembly.

3.2.3.2 Under-Secretaries-General:

1. The Plenary Assembly will elect up to a maximum of three States parties to fill the posts of Under-Secretaries-General for a period of four years.

2. The Under-Secretaries-General must be the elected national coordinators of States parties, unless, in exceptional circumstances, the latter expressly designate another person.

3.3 Mandate and tasks:

3.3.1 The Conference aims to study and promote forms of legal cooperation between Member States and, to this end it:

(a) Develops cooperation programmes and analyses their results;

(b) Adopts legal treaties;

(c) Adopts resolutions and makes recommendations to States;

(d) Promotes consultations among member countries on questions of a legal nature and common interest and appoints expert committees;

(e) Elects the members of the Executive Committee and the Secretary-General;

(f) Carries out any other activity aimed at achieving its objectives.

To carry out these tasks, the priorities of the substantive agenda of the Conference have focused on the following topics: the fight against transnational organized crime, the reform of prison systems, the modernization of the administration of justice, access to justice, the prevention of violence and crime and support for the Ibero-American Network for International Legal Cooperation (IberRed).

3.4 Financing:

3.4.1 The budget of the Conference will be triennial and will be prepared by the General Secretariat. The Plenary Assembly approves the budget and its implementation.

3.4.2 The budget must identify the expected income and expenditure for the work activities planned for the subsequent financial period.

3.4.3 The budget will be funded in the following ways:

(a) Through contributions from the States parties, which are set and approved by the Plenary Assembly in accordance with the proportional contribution rules and the level of economic development of each State. After approval of the Budget, the Plenary Assembly will define the minimum contribution to be made by each country. The remaining balance of the budget will be funded proportionally, based on the current scale of assessments of the United Nations Organization;

(b) Through voluntary contributions from any country, agency or entity;

(c) Through other possible additional funding strategies.

4. Relations of the Conference of Ministers of Justice of the Ibero-American countries on the international stage

4.1 Relations with intergovernmental and governmental organizations

In accordance with article 3 of its Constituent Treaty, pursuant to which the Conference may establish relations with other organizations in order to better achieve its goals, COMJIB has been establishing partnerships with other organizations since its constitution. Important among these are the cooperation agreements signed with other agencies of the Ibero-American region such as the Organization of the Ibero-American States (OEI) and the International Organization of Youth for Ibero-America (OIJ). Close relations have also been maintained with other organizations in the region, as may be seen in the renewal of the agreement signed with the Central American Integration System (SICA) and the review of the terms of the proposed convention with the Organization of American States (OAS).

Recently, a memorandum of understanding was signed with the Conference of Ministers of Justice of Portuguese-speaking countries (CMJPLOP), an organization comprising eight countries (Angola, Brazil, Cabo Verde, Guinea-Bissau, Mozambique, Portugal, Sao Tome and Principe and Timor Leste) which shares with COMJIB the goal of promoting public policies for the improvement of justice in the countries of their respective fields of action.

Within the Council of Europe, the Conference holds observer status at the European Committee on Crime Problems.

Within the United Nations system, memorandums of understanding have been signed with the Economic Commission for Latin America and the Caribbean (ECLAC), the Latin American Institute for the Prevention of Crime and the Treatment of Offenders (UNLAI) and the United Nations Development Fund for Women (UNIFEM), and fruitful contact has recently been established with the Spanish Committee of the United Nations Children's Fund (UNICEF).

Other collaboration agreements include those signed with the Forum of Presidents of Legislative Powers of Central America and the Caribbean (FOPREL), the Inter-American Court of Human Rights and the International Criminal Police Organization (INTERPOL)

4.2 Relations with international non-governmental organizations

In this area, the Conference has also strengthened partnerships with various foundations, such as the Tierra de Hombres Foundation and the Society of International Studies.

5. Advantages of granting observer status to the Conference of Ministers of Justice of the Ibero-American Countries

5.1 The Conference shares and promotes the values and principles of the international community and legal multilateralism and can develop and propose international agreements, frameworks and conventions. It also has a close relationship and links with other Ibero-American judicial networks and agencies such as the Ibero-American Association of Public Prosecutor's Offices (AIAMP) and the Ibero-American Judicial Summit. Both forums made positive contributions and supported the efforts of COMJIB relating to the development of the Ibero-American justice map and the survey on victimization, perceptions of insecurity and the quality of access to justice for the definition of legal security indicators that can consolidate the effectiveness of public policies in the region and achieve justice goals that contribute to prosperity in Ibero-American countries. This was reflected in the conclusions of the AIAMP meeting held in Santa Cruz de la Sierra, Plurinational State of Bolivia, in October 2015, and in the Final Declaration of the Ibero-American Judicial Summit, held in Asunción, in April 2016.

5.2 The Conference aims to consolidate an interconnected Ibero-American legal space with a vision of justice indicators and targets, and it has developed a regional agenda in line with Sustainable Development Goal 16 of the United Nations 2030 Agenda. In this regard, the first meeting on the future of justice in Mesoamerica, with the theme "priorities and targets", was held in January 2016, in Antigua,

Guatemala, bringing together legislators, notaries, public defenders, attorneys general, presidents of supreme courts and justice ministers of the following 11 countries: Colombia, Costa Rica, Cuba, the Dominican Republic, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama and Spain.

The meeting had before it a draft document, produced by the General Secretariat of the Conference, entitled "First regional meeting on the future of justice in Mesoamerica: priorities and targets. A preliminary outline of regional intermediate targets", in the framework of Goal 16. Thanks to input from the participants, this document was enhanced, giving rise to 49 intermediate regional targets that are intended to form the steps towards contributing to achieving the 12 global targets of the Goal by 2030. Plans are already being made by the General Secretariat for the South American regional meeting, which Argentina has offered to host, which will cover the rest of the Ibero-American region.

In addition, the Conference has already been included as one of the international observer organizations participating in the consultation on the Sustainable Development Goal indicators. The General Secretariat took part as an observer in the third meeting of the Inter-agency and Expert Group on Millennium Development Goal Indicators of the Statistical Commission of the Economic and Social Council that was held in April 2016 in Mexico City.

5.3 The Conference of Ministers of Justice of the Ibero-American countries, with its proven capacity for coordination at the intergovernmental technical and legal level and with the legal sector in general, is a regional forum of countries with the same legal roots, with similar features in their respective legal systems, with international tools and instruments for legal cooperation such as international treaties and conventions for Ibero-America and academic exchanges for common legal training for judicial officials, all of which brings vitality to the Ibero-American legal space. In this regard, the Conference can serve as a key player in the development of regional initiatives in the areas of justice and security, with the capacity to provide technical and operational support to United Nations departments, programmes and agencies.

5.4 The Conference helps to promote a common body of law and legal security in the region, maintaining a dialogue with all judicial institutions in 21 countries, complementing the Ministries of Justice with such other operators in the sector as the attorneys general, the supreme courts of justice, public defenders offices and legislative assemblies. This dialogue has enabled COMJIB to participate in various programmes and projects with the entire justice chain.

In the area of cooperation programme and project management, Spanish aid agencies and the European Union have helped COMJIB to achieve results in the framework of the project to harmonize criminal legislation to combat organized crime in Central America and the Dominican Republic effectively, benefiting Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, Nicaragua and Panama. This project is part of the support provided to the Central American Security Strategy (SICA-ESCA).

Support from the European Union through the EUROsociAL II programme has also been important. Thanks to this programme, the actions have been implemented in the following areas: alternative conflict resolution mechanisms, socio-professional integration of incarcerated persons, gender violence in Ibero-

America: investigation of crimes, care for victims and inter-agency coordination and improvement of inter-agency coordination in the fight against corruption.

The Conference is an intergovernmental organization, as stated in article 1 of its Constituent Treaty (referred to in section 1.3 of this explanatory memorandum), thus fulfilling the legal criteria set out in General Assembly decision 49/426 of 9 December 1994, in which the Assembly, on the recommendation of the Sixth Committee, decided that the granting of observer status in the Assembly should be confined to States and to those intergovernmental organizations whose activities cover matters of interest to the Assembly.

In the light of this explanatory memorandum:

(a) The General Assembly of the United Nations is requested to grant the General Secretariat of the Conference of Ministers of Justice of the Ibero-American Countries a standing invitation to participate, as appropriate, in the sessions and work of the Assembly and its subsidiary organs and in international conferences convened under the auspices of the United Nations;

(b) In addition, the General Assembly may wish to consider the possibility of adopting a decision that would allow the General Secretariat of the Conference of Ministers of Justice of the Ibero-American Countries to circulate its documents in the Assembly;

(c) The General Assembly may also wish to consider the possibility of inviting the specialized agencies of the United Nations system to adopt similar modalities for cooperation with the General Secretariat of the Conference of Ministers of Justice of the Ibero-American Countries.

Annex II

Constituent Treaty of the Conference of Ministers of Justice of the Ibero-American countries

The States signatory to this treaty,

AWARE of the profound historical, cultural and legal ties uniting them,

WISHING to transform these ties into legal cooperation instruments,

ACKNOWLEDGING the important contribution to this task made to date by the Conference of Ministers of Justice of the Hispano-Luso-American Countries, established under the Madrid Agreement of 1970,

DETERMINED to continue this work via a suitable international instrument,

CONSIDERING that the Conference of Ministers of Justice of the Hispano-Luso-American Countries, at its meeting in Acapulco in 1988, recommended holding an Extraordinary and Plenipotentiary Conference in Spain in 1992, on the occasion of the Five Hundredth Anniversary, in order to adopt such an instrument.

HAVE RESOLVED to adopt an international Constituent Treaty of the Conference of Ministers of Justice of the Ibero-American Countries and to this end have appointed their respective plenipotentiaries, whose powers have been recognized in good and due form and who to such effect have agreed to the following provisions:

Constitution
Article 1

The Conference of Ministers of Justice of the Ibero-American Countries (hereinafter the Conference) is an intergovernmental organization resulting from the transformation of the Conference of Ministers of Justice of the Hispano-Luso-American Countries and the Philippines, constituted by the Madrid Agreement on 19 September 1970.

Headquarters
Article 2

The headquarters of the Conference is in Madrid.

Purposes
Article 3

1. The aim of the Conference is to study and promote forms of legal cooperation among member States and to this effect:

(a) It devises cooperation programmes and analyses their results.

(b) It adopts treaties of a legal nature.

(c) It adopts resolutions and formulates recommendations for the States.

(d) It promotes consultations between the member countries concerning matters of a legal nature and common interest and appoints expert Committees.

(e) It elects the members of the Executive Committee and the General Secretary.

(f) It carries out any other activity tending to achieve its inherent aims.

2. In order better to achieve its aims, the Conference may establish relations with other Organizations and especially with the Organization of American States, the European Council and the European Community.

Principle of non-interference
Article 4

Under no circumstances shall matters be admitted that, according to the affected country, imply interference in its internal affairs.

Members
Article 5

1. The Conference is open to all of the States of the community of Ibero-American countries, represented by their Justice Ministers or the equivalent. Each State party shall have the right to one vote.

2. The exclusion or suspension of a State party may only take place when two thirds of the States parties so vote.

Languages
Article 6

The official and working languages of the Conference are Spanish and Portuguese.

Organs
Article 7

The Conference organs are the Executive Committee and the Permanent General Secretariat.

Quorum
Article 8

1. The Conference shall be validly constituted when attended by the majority of States parties.

2. The recommendations addressed to States parties, the adoption of treaties and the adoption of the budget and its settlement shall require a majority of two thirds of the States parties present.

3. All other decisions shall require a simple majority of the States parties present.

Personality
Article 9

The Conference shall have a legal personality.

Privileges and Immunities
Article 10

The Conference shall enjoy, in all States parties, the privileges and immunities required for the exercise of its functions, in accordance with international law. Said privileges and immunities may be defined by agreements reached by the Conference and the affected State party.

Funding
Article 11

1. The Conference budget shall be funded by contributions of the States parties, according to the proportional contribution rules established by the Conference and the level of economic development of each State.

2. The budget shall be for a three-year period and shall be drawn up by the General Secretariat. The Conference shall approve the budget and its implementation.

Executive Committee
Article 12

The Executive Committee of the Conference consists of five members, elected at each of the Conferences from among the participants thereat by the majority of one half plus one of the votes cast. Its mandate shall last until the new election and its members may be re-elected.

Functions of the Executive Committee
Article 13

The Executive Committee shall assume, when the Conference is not sitting, the functions assigned to the latter in sections 1 (a), (d) and (f) of article 3; it shall agree to convene the Conference, giving notice of the place and date of the meeting; it shall draw up the agenda in accordance with the priorities established by the Conference and shall adopt the texts that are to be subjected to the decision of the Conference.

Permanent General Secretariat
Article 14

The Permanent General Secretariat of the Conference shall consist of a General Secretary elected by the Conference.

Final Provisions
Article 15

1. This Treaty shall remain open for signature by the member States of the community of Ibero-American countries.

2. The duration of this Treaty is unlimited.

3. All contracting States may denounce this Treaty by sending notification addressed to the General Secretary. Denunciation shall come into effect six months after the date of notification.

4. This Treaty shall be subject to ratification or accession, and the respective instruments must be deposited with the Permanent Secretariat of the Conference.

5. Until this Treaty comes into force, the Final Agreement of the Madrid Conference of 19 September 1970 shall continue to be valid, as shall the Rule adopted by resolution No. 4 of the Conference of Ministers of Justice of the Hispano-Luso-American Countries and the Philippines.

Article 16

1. This Treaty shall come into force on the first day of the third month following the month in which the seventh instrument of ratification or accession is deposited with the Permanent General Secretariat of the Conference.

2. With reference to each of the States that ratify it or accede thereto after the date of deposition referred to above, the Treaty shall come into force ninety days after the deposit of the respective instrument of ratification or accession.

Article 17

The General Secretary of the Conference shall notify the States that are party to this Treaty regarding:

(a) The deposition of instruments of ratification or accession.

(b) The date on which the Treaty shall come into force.

(c) Any denunciation of the Treaty and the date on which the respective notification was received.

DONE in Madrid on 7 October nineteen hundred and ninety-two, in two copies, in the Spanish and Portuguese languages, whose texts are equally authentic. In witness whereof, the undersigned Plenipotentiaries, duly authorized as such by their respective Governments, have signed this Treaty.

For the Republic of Argentina
[Indecipherable signature]

For the Republic of Bolivia
[Indecipherable signature]

For the Federal Republic of Brazil
[Indecipherable signature]

For the Republic of Columbia
[Indecipherable signature]

For the Republic of Costa Rica
[Indecipherable signature]

For the Republic of Cuba
[Indecipherable signature]

For the Republic of Chile
[Indecipherable signature]

For the Republic of Ecuador
[Indecipherable signature]

For the Republic of El Salvador
[Indecipherable signature]

For the Kingdom of Spain
[Indecipherable signature]

For the Republic of Guatemala
[Indecipherable signature]

For the Republic of Honduras
[No signature]

For the United Mexican States
[Indecipherable signature]

For the Republic of Nicaragua
[Indecipherable signature]

For the Republic of Panama
(*Signed*) Carlos R. Trujillo
[Indecipherable signature]

For the Republic of Peru
[Indecipherable signature]

For the Republic of Portugal
[Indecipherable signature]

For the Republic of Venezuela
[Indecipherable signature]

For the Republic of Paraguay
[Indecipherable signature]

For the Dominican Republic
[No signature]

For the Eastern Republic of Uruguay
[No signature]

Annex III

Headquarters Agreement between the Kingdom of Spain and the Conference of Ministers of Justice of the Ibero-American Countries

The Kingdom of Spain and the Conference of Ministers of Justice of the Ibero-American Countries (hereinafter "the Conference"),

Whereas, in accordance with the Constituent Treaty of the Conference of Ministers of Justice of the Ibero-American Countries, concluded in Madrid on 7 October 1992, to which Spain is a party, the Conference is established as an intergovernmental organization resulting from the transformation of the Conference of Ministers of Justice of the Hispano-Luso-American Countries and the Philippines, instituted in 1970,

Whereas, in accordance with article 3 of its Constituent Treaty, the Conference is to study and promote forms of legal cooperation among Member States,

Whereas, in accordance with its Constituent Treaty, the Conference shall have legal personality and shall have its headquarters in Madrid, Spain,

Whereas article 7 of the Constituent Treaty of the Conference establishes, as organs of the Conference, the Executive Committee and the Permanent General Secretariat,

Whereas, during the fifteenth Conference of Ministers of Justice of the Ibero-American Countries, held in Las Palmas de Gran Canaria on 28 and 29 September 2006, the Member States of the Conference called on its General Secretariat to conclude a headquarters agreement with Spain,

Whereas, in accordance with article 10 of the international Constituent Treaty of the Conference of Ministers of Justice of the Ibero-American Countries, the Conference shall enjoy in all States parties the privileges and immunities required for the exercise of its functions, in accordance with international law, and that such privileges and immunities may be defined by agreements concluded by the Conference and the State party in question,

Have agreed to conclude the following Headquarters Agreement:

Article 1. Legal personality

1. In accordance with article 9 of the Constituent Treaty of the Conference of Ministers of Justice of the Ibero-American Countries, the Conference has its own legal personality.

2. In Spain, the Conference of Ministers of Justice of the Ibero-American Countries shall enjoy the broadest possible legal capacity and capacity to act. In particular, it may conclude contracts, acquire or dispose of movable and immovable property and institute legal proceedings. To this end, it shall be represented by the Secretary-General of the Conference of Ministers of Justice of the Ibero-American Countries or a representative authorized by the Secretary-General.

Article 2. Cooperation between the Parties and freedom of action

1. The Parties shall cooperate faithfully, in accordance with the provisions of this Agreement as well as towards the achievement of the Organization's goals.

2. Spain shall grant the Conference of Ministers of Justice of the Ibero-American Countries all of the powers necessary for the conduct of its affairs and the exercise of its functions.

In particular, Spain guarantees the Conference of Ministers of Justice of the Ibero-American Countries the independence and freedom of action inherent in its status as an international organization. It also guarantees its staff freedom of movement through Spanish territory and full compliance with the privileges, immunities, facilities and exemptions identified in the following articles.

Article 3. Headquarters of the Conference of Ministers of Justice of the Ibero-American Countries

1. In accordance with article 2 of the Constituent Treaty of the Conference of Ministers of Justice of the Ibero-American Countries, the Conference shall have its headquarters in Madrid. The Spanish Government shall undertake to make available to the Conference the premises necessary in order for it to exercise its functions. It also undertakes to take the necessary measures to enable the Conference to use the buildings comprising its headquarters.

2. The headquarters of the Conference of Ministers of Justice of the Ibero-American Countries shall be established in premises whose location, size and characteristics shall be set by mutual agreement between the Spanish Government and the Conference.

3. The Conference of Ministers of Justice of the Ibero-American Countries may acquire or rent other additional premises in Spanish territory; the location, size and characteristics of the additional premises shall also be set by mutual agreement between both Parties.

4. This Agreement's treatment of the premises of the Conference of Ministers of Justice of the Ibero-American Countries shall apply both to the headquarters and to the additional premises.

Article 4. Inviolability

1. All of the premises of the Conference of Ministers of Justice of the Ibero-American Countries, including the buildings occupied as a whole or the land on which they are established, shall be inviolable, regardless of who their owner may be. No agent of the Spanish authorities shall enter the premises without the explicit consent of the Secretary-General of the Conference or a representative authorized by the Secretary-General.

2. The archives of the Conference, its official correspondence, and, in general, all documents owned by it or in its possession and intended for its official use shall be inviolable, wherever they may be.

3. Unless expressly authorized by the Secretary-General, the premises, as well as any other property and assets of the Conference of Ministers of Justice of the Ibero-American Countries in Spain, shall be immune from any enforcement or executive measure, such as search, requisition, attachment, confiscation, or expropriation,

irrespective in this regard of whether the measure may be executive, administrative, judicial or legislative.

4. The Conference of Ministers of Justice of the Ibero-American Countries shall be responsible for the security of its premises and for maintaining order within them.

5. The Spanish Government shall take all appropriate measures to ensure the security of all of the premises of the Conference of Ministers of Justice of the Ibero-American Countries. At the request of the Secretary-General, it shall provide the assistance necessary to maintain order within them.

Article 5. Immunity from legal process

1. The Conference of Ministers of Justice of the Ibero-American Countries shall enjoy full immunity from criminal, civil and administrative legal process, except insofar as the Secretary-General or a representative authorized by the Secretary-General has expressly waived such immunity.

It is also exempt from civil actions lodged by third parties against the Conference for damages and harm arising from accidents involving authorized vehicles belonging to the Conference or operated by one of its staff.

2. The inclusion in a contract to which the Conference of Ministers of Justice of the Ibero-American Countries is a party of a clause in which the jurisdiction of an ordinary Spanish court is recognized shall constitute a formal waiver of immunity.

3. The institution by the Conference of Ministers of Justice of the Ibero-American Countries of legal proceedings shall imply that it waives immunity from legal process in the event of a counterclaim.

4. The waiver of immunity from legal process in the events provided for in the previous sections shall not extend to the enforcement measures unless explicitly stipulated in each case.

Article 6. Communications

1. In its official communications, the Conference of Ministers of Justice of the Ibero-American Countries shall enjoy treatment not less favourable than that accorded to other international institutions and diplomatic missions in Spain, especially in terms of priority, rates and taxes on correspondence, telephone, telegraph and other communications.

2. The Conference of Ministers of Justice of the Ibero-American Countries shall have the right to use codes in its official communications, and to send and receive correspondence by couriers or in bags, properly marked, which shall enjoy the same privileges and immunities as diplomatic couriers and bags, including the guarantee of their inviolability.

3. In the event of force majeure circumstances entailing the complete or partial interruption of these services, the Conference of Ministers of Justice of the Ibero-American Countries shall be granted, for the purpose of meeting its needs, the same priority as is enjoyed by the Spanish Administration.

4. None of the provisions of this article may be construed to prohibit the adoption of special security measures, which may be appropriate in the

circumstances; such measures, however, shall be determined by agreement between the Parties.

Article 7. Public services

The Spanish Government shall grant the Conference of Ministers of Justice of the Ibero-American Countries favourable treatment similar to that granted to international organizations based in Spain and to diplomatic missions accredited in Spain for the use of all public services, in terms of priority, rates, taxes and other aspects.

Article 8. Tax and customs regime

1. The Conference, its property and assets, as well as the income or profits generated by its official activities, shall be exempt from all national, regional and local taxes and charges, except those established for the provision of services or performance of activities and those indirect taxes that are normally included in the price of goods and services.

2. With regard to the exemption from value added tax, the provisions of article 22, paragraphs 8 and 9, of Act No. 37/1992 of 28 December on value added tax, which were developed by Royal Decree No. 3485/2000 of 29 December on relief and exemptions for diplomatic missions, consulates and international organizations, and amending the General Vehicle Regulations, adopted by Royal Decree No. 2822/1998 of 23 December, shall apply to the Conference.

3. The Conference shall be exempt from all customs duties and related charges of any kind, except those relating to the costs of storage, transport and the provision of services, as well as from prohibitions and restrictions on imports and exports in respect of articles imported or exported for its official use.

4. Articles imported under such exemption shall not be sold or transferred in Spain without the authorization of the Customs and Excise Department of the State Agency for Tax Administration, processed through the Ministry of Foreign Affairs, by means of the release for consumption of the articles concerned, which shall be subject to fulfilment of the relevant foreign trade formalities and payment of the applicable taxes.

5. Spain and the Conference shall agree on the specific rules applicable to the import, pursuant to the provisions of paragraphs 3 and 4, of a number of vehicles that is sufficient to meet the official needs of the Conference. Such vehicles may not be sold or transferred on Spanish territory until one year after the date of their duty-free import, except in the event that the vehicles become unusable or show serious deterioration.

6. Applications for any imports or exports under this article and their customs clearance shall be processed in accordance with the rules established by the Customs and Excise Department of the State Agency for Tax Administration. All requests must be signed by the Secretary-General of the Organization or, in his absence, by his authorized representative and shall be issued through the Ministry of Foreign Affairs.

7. With regard to supplies for its official vehicles, the Conference shall be accorded the same facilities as those accorded to diplomatic missions accredited in Madrid.

Article 9. Free provision of funds

1. For the fulfilment of its purposes, the Conference of Ministers of Justice of the Ibero-American Countries may hold funds or currency of any kind and operate accounts in any currency. It shall also be free to receive and transfer its funds or currency and to convert any currency held by it into any other currency.

2. The accounts of the Conference of Ministers of Justice of the Ibero-American Countries may not be subject to measures such as currency exchange, movement restrictions or seizure by the Spanish authorities.

Article 10. Freedom to enter and stay

1. Spain shall take appropriate measures to facilitate the entry into, departure from and stay in Spanish territory of the following categories of persons, irrespective of their nationality, with the understanding that they shall not be exempt from the application of public health regulations:

(a) Representatives of States members of the Conference of Ministers of Justice of the Ibero-American Countries, sectoral ministerial meetings, expert meetings and other bodies of the Conference;

(b) The Secretary-General;

(c) Under-Secretaries-General;

(d) Duly accredited personnel of the Conference of Ministers of Justice of the Ibero-American Countries;

(e) The spouses and unmarried children under the age of 23 years who reside with the accredited agent and are their financial dependents;

(f) Any other persons who, by virtue of their role, should have access to the headquarters of the Conference of Ministers of Justice of the Ibero-American Countries for official reasons, such as experts contracted for the implementation of programmes on Spanish territory and those individuals who are officially invited by the Conference, provided that the Ministry of Foreign Affairs and Cooperation has been duly informed. In the event that the persons mentioned above are required to remain in Spain for a period of time equal to or longer than one year in order to perform the duties assigned to them by the Conference, the rules relating to their entry, departure and stay shall also apply to their spouses and minor children who live under their care on the same terms as those set out in paragraph (e) of this article.

2. Visas required by the persons referred to in this article shall be granted without charge and as promptly as possible.

3. Spain and the Conference of Ministers of Justice of the Ibero-American Countries shall incorporate and coordinate the exchange of relevant data and information to expedite the formalities required to implement the provisions of this article.

Article 11. Status of the representatives of the States members of the Conference of Ministers of Justice of the Ibero-American Countries

1. The representatives of the States members of the Conference of Ministers of Justice of the Ibero-American Countries with the rank of Minister, Deputy Minister

or equivalent, who attend the plenary sessions, meetings of the standing committee, sector ministerial meetings and other bodies of the Conference, or meetings convened by the Conference, shall enjoy the following privileges and immunities in Spain:

(a) Inviolability of person, place of residence and all articles owned by the person concerned;

(b) Immunity from arrest and detention and immunity from legal process in respect of their spoken or written words and all acts performed by them in the exercise of their official duties;

(c) Customs facilities for their personal effects and exemption from inspection of their personal baggage on the same terms as those granted to diplomatic agents on temporary mission;

(d) Exemption from all immigration restrictions. Visas which, in accordance with the legislation in force, are required by the persons referred to in this article shall be granted without charge and as promptly as possible.

(e) Foreign exchange facilities that are identical to those granted to diplomatic agents on temporary mission.

2. These privileges, immunities, exemptions and facilities shall be extended to spouses accompanying the above representatives during their stay.

3. It shall be understood that the facilities set out in this article shall be granted for the exercise and performance of the official missions and duties of the representatives referred to in paragraph 1 and shall be limited to the time required for that purpose regardless of the duration. The Spanish Government may request that the persons to whom this article applies leave Spanish territory and shall withdraw the facilities granted to them if they are found to have abused those facilities. Before making such a request, the Ministry of Foreign Affairs and Cooperation shall inform the Government of the Member State concerned and the Secretary-General of the Conference of Ministers of Justice of the Ibero-American Countries.

4. In addition, in the case of the persons referred to in paragraph 1(a) of the previous article, the request to leave Spanish territory shall be made by means of a procedure similar to that followed for diplomatic agents accredited in Spain.

Article 12

Status of the Secretary-General and staff members of the Conference of Ministers of Justice of the Ibero-American Countries

1. The Secretary-General of the Conference of Ministers of Justice of the Ibero-American Countries shall enjoy all the privileges, immunities, exemptions and facilities granted to heads of diplomatic missions accredited in Spain.

2. When acting on behalf of the Secretary-General by reason of his or her absence or other impediment, the Under-Secretary-General shall enjoy the same status as the Secretary-General during that period and shall be treated as the chargé d'affaires ad interim. The same principle shall apply when another senior staff member of the Conference acts on behalf of the Secretary-General by reason of his or her absence or impediment.

3. The Secretary-General shall designate those staff members who, by virtue of their responsibilities and duties, shall enjoy:

(a) The privileges, immunities, exemptions and facilities granted to diplomatic agents in Spain;

(b) The privileges, immunities, exemptions and facilities granted to the administrative and technical staff of diplomatic missions accredited in Spain;

(c) The privileges, immunities, exemptions and facilities granted to the service staff of diplomatic missions accredited in Spain.

The number of staff members in each of the categories mentioned in subparagraphs (a), (b) and (c) shall be decided upon at regular intervals in agreement with the Government of Spain.

4. The Conference of Ministers of Justice of the Ibero-American Countries shall notify the Ministry of Foreign Affairs of:

(a) Appointments of staff members, their arrival in and final departure from Spain and the termination of their functions in the Conference of Ministers of Justice of the Ibero-American Countries;

(b) The arrival and final departure of all persons who are members of a staff member's family and reside with him or her, and, where applicable, the fact that a person has become or ceased to be a member of that family.

5. Any dispute between the Conference and its staff members shall be referred to arbitration for settlement. The arbitral tribunal shall consist of three members.

6. Any dispute that cannot be resolved through arbitration shall be referred to the International Labour Organization Administrative Tribunal for a final decision.

Article 13

Immunities and facilities accorded to staff members of the Conference of Ministers of Justice of the Ibero-American Countries

1. Without prejudice to any other immunity or facility that may be granted under the previous article, staff members of the Conference of Ministers of Justice of the Ibero-American Countries and their dependants shall enjoy the privileges, immunities, facilities and exemptions set out in the paragraphs below.

2. All staff members of the Conference of Ministers of Justice of the Ibero-American Countries, except for Spanish nationals and foreign citizens who are permanent residents of Spain, shall be exempt from taxation on the salaries, emoluments and allowances they receive from the Conference or on its behalf.

3. The staff members with diplomatic status and the administrative and technical staff members of the Conference referred to in article 12, paragraph 3 (a) and (b), and their dependants (spouses and unmarried children under the age of 23 years who live with the accredited agent and are financially dependent on him or her), who are neither Spanish nationals nor permanent residents of Spain, shall also enjoy:

(a) Exemption from all restrictions on immigration, residence permits and work permits, provided that they engage in no other remunerated or professional activity in Spain, as well as from any civilian or military national service that the Spanish authorities might require of Spanish citizens. If, under current legislation,

any of these persons should require a visa to enter Spain, it shall be issued free of charge and as promptly as possible;

(b) Foreign-exchange facilities;

(c) Repatriation facilities in the event of an international crisis.

4. The staff members of the Conference of Ministers of Justice of the Ibero-American Countries with diplomatic status referred to in article 12, paragraph 3 (a), and their dependants shall also enjoy:

(a) Immunity from legal process and inviolability of person, residence, correspondence and baggage, in accordance with their rank;

(b) All customs and tax privileges applicable under Spanish law to staff members with diplomatic status of an international organization based in Spain and their dependants.

5. The administrative and technical staff members of the Conference of Ministers of Justice of the Ibero-American Countries referred to in article 12, paragraph 3 (b), and their dependants, provided that they are not Spanish nationals or permanent residents of Spain, shall also enjoy all customs and tax privileges applicable under Spanish law to administrative and technical staff members of an international organization based in Spain, and their dependants, provided that they are not Spanish nationals or permanent residents of Spain.

6. The regime of privileges, facilities and exemptions accorded to staff members of the Conference of Ministers of Justice of the Ibero-American Countries that is set out in paragraphs 3 to 5 of this article shall be no less favourable than that applicable to staff of comparable rank in the diplomatic missions accredited in Spain.

7. Should one of the persons referred to in this article be a Spanish national or a permanent resident of Spain, the Spanish Government shall not be required to grant that person privileges and immunities more favourable than those laid down for such cases in the Vienna Convention on Diplomatic Relations of 1961.

Article 14

Social security

1. The Conference of Ministers of Justice of the Ibero-American Countries shall be exempt from all compulsory contributions to general social security institutions, compensation funds and unemployment or accident insurance funds. In addition, staff members of the Conference who are foreign nationals and were not previously permanent residents of Spain shall be exempt from Spanish social security provisions.

2. However, the Conference may voluntarily incorporate all staff members in its service into the Spanish social security system under the conditions established by Spanish law.

3. The Conference must make arrangements for staff of Spanish nationality or those recruited locally to participate in the Spanish social security system. In this regard, Royal Decree No. 317/1985 of 6 February 1985 shall apply to the Conference; it provides that Spanish officials residing in the country and serving

international organizations based in Spain must be included in the social security system.

Article 15

Prevention of abuse

1. The Conference of Ministers of Justice of the Ibero-American Countries and the Spanish Government shall cooperate at all times to facilitate the proper administration of justice, ensure compliance with police regulations and prevent any abuse of the privileges, immunities, exemptions and facilities provided for in this Agreement.

2. The Conference of Ministers of Justice of the Ibero-American Countries recognizes that the privileges and immunities provided for in this Agreement are not for the benefit of its staff but rather are intended to ensure the proper functioning of the General Secretariat and the complete independence of its staff in all circumstances.

Consequently, the Secretary-General of the Conference shall waive the immunity of staff members of the General Secretariat if, in his or her opinion, it interferes with the course of justice and may be waived without prejudice to the interests of the Conference.

3. The Conference shall take all necessary measures to settle satisfactorily potential disputes of a private law character to which it may be a party, as well as disputes in which staff members in its service may be involved, unless it has waived its own or their immunity from legal process pursuant to the provisions of article 5 or paragraph 2 of the present article.

Article 16

Identity cards

1. The Ministry of Foreign Affairs shall issue identity cards to all staff members of the Conference of Ministers of Justice of the Ibero-American Countries and, in the case of staff members who are not Spanish nationals or residents, to dependants living with them who are not engaged in any remunerated activity. The card shall serve as an identity document that may be presented to the Spanish authorities.

2. On a regular basis, the Conference shall transmit to the Ministry of Foreign Affairs a list of the Organization's staff members and any dependants residing with them, indicating their date of birth, nationality, whether they have resident or non-resident status in Spain and the category or type of function of each staff and family member.

Article 17

Exemption of Spain from liability

Spain shall not incur any international liability, by reason of the activities of the Conference of Ministers of Justice of the Ibero-American Countries in its territory, for acts or omissions of the Secretariat or those of its agents acting or failing to act within the scope of their functions.

Article 18

Settlement of disputes

1. Any dispute between Spain and the Conference of Ministers of Justice of the Ibero-American Countries arising out of the interpretation or application of the present Agreement or a supplementary agreement or any other issue concerning relations between the General Secretariat and the Spanish authorities that it has not been possible to settle by direct communication between the Parties may be submitted by either Party to an arbitral tribunal composed of three members for a final decision.

2. Spain and the Conference shall each designate an arbitrator. The third arbitrator, who shall act as Chair, shall be appointed by the other two. In the event that one of the Parties has not designated an arbitrator or if agreement has not been reached on the designation of the third arbitrator within three months of the request for arbitration, either Party may request the President of the International Court of Justice to designate the required arbitrator or arbitrators, as the case may be.

3. The tribunal, which shall establish its own rules of procedure, shall rule in accordance with the present Agreement and the relevant rules of general international law.

Article 19

Duration of the Agreement

The present Headquarters Agreement shall have the same duration as the Constituent Treaty of the Conference of Ministers of Justice of the Ibero-American Countries.

Article 20

Amendments to the Agreement and supplementary agreements

1. The Parties undertake to negotiate any amendment to this Agreement proposed by the other Party. Amendments shall be adopted by mutual agreement.

2. Spain and the Conference of Ministers of Justice of the Ibero-American Countries may enter into any supplementary agreements that they deem necessary.

Article 21

Entry into force

1. This Agreement shall be applied provisionally from the date of its signature.

2. This Agreement shall enter into force on the date of receipt of the last of the notifications by which the Parties notify each other that they have completed the procedures required by their laws on the conclusion of treaties.

Done at Punta del Este, Uruguay, on 13 November 2007, in duplicate in the Spanish and Portuguese languages, both texts being equally authentic.

For the Kingdom of Spain:

(*Signed*) Mariano Fernández Bermejo
Minister of Justice

For the Conference of Ministers of Justice of the Ibero-American Countries:

(*Signed*) Victor Moreno Catena
Secretary-General

In the presence of:

(*Signed*) Felipe Michelini
Undersecretary for Education and Culture
For the Eastern Republic of Uruguay

(*Signed*) Laura Chinchilla Miranda
Vice-President of the Republic
and Minister of Justice
For the Republic of Costa Rica

(*Signed*) Derlis A. Céspedes Aguilera
Minister of Justice and Labour
For the Republic of Paraguay

(*Signed*) Marcela Losardo
Deputy Minister of Justice
For the Argentine Republic

(*Signed*) Tarso Genro
Minister of State for Justice
For the Federative Republic of Brazil

(*Signed*) Urbano Pedraza Linares
Deputy Minister of Justice
For the Republic of Cuba

(*Signed*) Juan Rivera
District Attorney
For the Republic of Ecuador

(*Signed*) Manuel Martínez Sevilla
President of the Supreme Court
For the Republic of Nicaragua

(*Signed*) Maria Zavala Valladares
Minister of Justice
For the Republic of Peru

(*Signed*) Guillermo Valls Esponda
Attaché, Office of the Attorney General of the Republic
For the United Mexican States

(*Signed*) Angel E. Orellana Mercado
Minister of the Interior and Justice
For the Republic of Honduras

(*Signed*) José Conde Rodrigues
Deputy Secretary of State for Justice
For the Portuguese Republic

(Signed) Celina Terrico Rojas
Minister of Justice
For the Plurinational State of Bolivia

(*Signed*) Guillermo F. Reyes González
Deputy Minister of Justice
For the Republic of Colombia

(Signed) Carlos R. Contreras Valenzuela
Deputy Minister of Support to the Justice Sector
For the Republic of Guatemala

(*Signed*) Ástor Escalante Saravia
Deputy Minister of Public Security and Justice
For the Republic of El Salvador

(*Signed*) Daniel Delgado Diamante
Minister of Government and Justice
For the Republic of Panama

(*Signed*) Frank Soto Sánchez
Deputy Attorney General
For the Dominican Republic

(*Signed*) Juan Cristóbal Gonzalez
Head, International Relations
For the Republic of Chile

Annex IV

Draft resolution

Observer status for the Conference of Ministers of Justice of the Ibero-American Countries in the General Assembly

The General Assembly,

Wishing to promote cooperation between the United Nations and the Conference of Ministers of the Ibero-American Countries,

1. *Decides* to invite the Conference of Ministers of Justice of the Ibero-American Countries to participate in the sessions and the work of the General Assembly in the capacity of observer;

2. *Requests* the Secretary-General to take the necessary action to implement the present resolution.